

### **3.300 DISCONNECTION OF RESIDENTIAL GAS, ELECTRIC, AND WATER SERVICE**

#### **3.301 Definitions**

For the purposes of this rule, the following definitions apply:

- (A) Disconnection: deliberate interruption, limitation, or disconnection of utility service to a ratepayer by the serving utility, not including disconnection at the request of or with the permission of the ratepayer.
- (B) Delinquency: failure of the ratepayer to tender payment for a valid bill or charge (1) within thirty days of the postmark date of that bill or charge, or (2) by a "due date" at least thirty days after mailing, which date shall be printed on the bill.
- (C) Notice: except where otherwise provided or where the context otherwise requires, notice shall mean written notice on a form approved by the Board, mailed or delivered within forty days after delinquency but not more than twenty days, nor less than fourteen days prior to the first date on which disconnection of service may occur. Where payment has been made by a check or other instrument which is subsequently dishonored, then the number of days between delivery to the utility of the dishonored instrument and receipt by the utility of notice of dishonor may be deducted from the minimum number of days prior to disconnection that notice must be sent, but in no event may that minimum number of days be less than four.
- (D) Physician's Certificate: a written statement by a duly licensed physician certifying that a ratepayer or resident within the ratepayer's household would suffer an immediate and serious health hazard by the disconnection of the company's service, or by failure to reconnect service, to that household. The certificate will be valid for thirty days, or the duration of the hazard, whichever is less, and may be renewed once. Use of a physician's certificate by a customer to prevent disconnection or to cause a reconnection is limited to two consecutive 30-day periods and shall not exceed three 30-day periods in any calendar year, except upon written order of the Board.
- (E) Payment of a bill: receipt at the company's business office or authorized payment agency of cash or of a check or other instrument which is subsequently honored.
- (F) Business Days: Monday through Thursday, excluding Vermont legal holidays and any other day, when the company's business offices are not open to the public, and any day preceding the day the company's business offices are not open to the public.

#### **3.302 General Rule**

Except at the request of the ratepayer or upon order of the Board, no utility shall disconnect residential service of gas, electric, or water unless payment of a valid bill or charge is delinquent and notice of disconnection has been furnished to the ratepayer, as provided in this rule.

- (A) Disconnections for Health or Safety Reasons. This rule shall not apply to any disconnection or interruption of service made necessary for reasons of health or safety of the ratepayer or the general public.

- (B) Exceptions. The following exceptions shall not apply to payment(s) of deposits, but shall apply to the general rule of this section. Disconnection shall not be permitted if:
- (1) the company bills at least as frequently as once every two months, and the delinquent bill or charge, or aggregate delinquent bills and charges, do not exceed \$50.00, provided that this exception may not be used for more than two billing cycles in one calendar year;
  - (2) the only charges or bills constituting the delinquency are more than two years old;
  - (3) the delinquency is due solely to a disputed portion of a charge which has been referred to the Board by the ratepayer or the company, and the Board has advised the company not to disconnect service;
  - (4) the delinquency is due to a failure to pay a line extension, special construction charge, or other non-recurring charge except that this exception shall not apply to reconnection charges, or charges for personal visits to collect delinquent accounts;
  - (5) the disconnection would represent an immediate and serious hazard to the health of the ratepayer or a resident within the ratepayer's household, as set forth in a physician's certificate furnished to the company. (Notice by telephone or otherwise that such certificate will be forthcoming will have the effect of receipt, providing the certificate is in fact received within seven days.); or
  - (6) the ratepayer has not been given an opportunity to enter into (a) a reasonable repayment plan or, having entered into such a plan, has substantially abided by its terms in accordance with Section 3.305 (A); and (b) in the case of gas and electric utilities, a monthly installment plan for the payment of future bills.
- (C) Disconnection of Rental Units. If a ratepayer requests that service be disconnected, the electric, gas or water company must ask whether a tenant resides in the dwelling. An electric, water or gas company may not disconnect a dwelling at the request of a lessor, owner, or agent ("landlord") or because the landlord (as a customer) has failed to pay an overdue amount, if it has reason to believe the dwelling is rented and unless the utility gives notice as described below.
- A company must make every reasonable attempt with respect to each potentially affected dwelling unit to deliver a notice three days prior to the scheduled disconnection to at least one adult occupant of that dwelling unit or mail a notice to the tenant of that dwelling unit. In buildings where service to two or more units is to be disconnected because of a landlord's request or non-payment, the utility must also post the notice in a secure and obvious place in the affected building or buildings. The notice must, in addition to the applicable disclosures of Section 3.303, inform the tenant how service can be continued. Notwithstanding the provisions of Section 3.301(C), a disconnection notice containing a newly established disconnection date shall be provided to the tenant at least ten days prior to the newly established disconnection date. If the disconnection is due to the failure of the landlord to pay an overdue amount, the landlord shall be responsible for usage during the additional ten-day notice period.
- A utility must offer the tenant the opportunity either to obtain service in the tenant's name or to otherwise assume responsibility for further payment. If the building has a single master meter for the whole building the utility must make arrangements where possible to provide individual meters to separate dwelling units.

Where the wiring and metering arrangements allow, the utility must provide service upon request of the tenant. The utility may not require the tenant to pay any of the bill owed to the utility by the landlord.

If the utility disconnects a household because it is not aware that the household is occupied by the tenant, and the landlord is responsible for payment of the utility bill, the utility must reinstate service upon notification from the tenant. Under such circumstances, the utility shall not require advance payment of any deposit, and the customer shall have the option of paying the deposit, if required, in three equal payments, with one third due in fifteen days, one third due in thirty days and one third due in sixty days.

(D) Budget Billing Plans. Each gas and electric utility shall offer budget payment plans to a customer at a primary residence, as defined in PSB Rule 3.201 in accordance with the following:

- (1) The plan shall be designed to reduce fluctuations in the customer's bills due to seasonal patterns of consumption and seasonal rates.
- (2) A customer may elect to participate in the budget billing plan at any time of year. A budget payment plan shall be based on the customer's recent twelve-month consumption, adjusted for known changes, including anticipated length of occupancy. If twelve months of billing data are not available for the customer, then twelve months of billing data for the premises shall be used. If twelve months of billing data are not available for the premises, then the utility shall estimate the future consumption over the next twelve-month period. Each plan shall provide that bills clearly identify consumption and state the amounts that would be due without budget billing.
- (3) The monthly payment due shall not exceed one-twelfth of the annual estimated bill, or the estimated average monthly amount for customers who expect to be in a dwelling for less than one year, as defined in subsection (D) (2) of this section. Between three and six months after the payment plan is initiated, the utility shall compare the payment plan bill with projected energy consumption and shall make adjustments necessary to minimize under- or over-payment by the customer. Between six and nine months after the payment plan is initiated, the utility may compare the payment plan with the projected energy consumption and if the difference exceeds 10% of the estimated annual consumption, the utility may adjust the monthly payment amount. Additionally, the utility shall reconcile a customer's budget payment plan twelve months after initiating the customer's plan and annually thereafter either on the anniversary of the initiation of the plan or at a set time of the year as filed in the utility's tariff. If the amount of the deficit exceeds \$50, the customer shall have the option of paying any budget plan deficit in twelve equal monthly installments during the ensuing 12 months.
- (4) Any customer who applies for the plan and has a delinquent balance shall have the right to pay the delinquency in an extended repayment plan concurrent with the budget plan.
- (5) Any customer who applies for budget billing shall be informed in writing that any disputed terms or conditions for such a billing plan may be referred to the Consumer Affairs Division of the Department of Public Service. Notice to the customer shall include the division's address and toll-free number.

- (E) Equal Treatment of Payments. A company shall treat all payments made by any person including the ratepayer in the same manner unless the utility receives instructions to the contrary. Payments shall be applied toward the delinquent portion of the account before being applied to the current bill unless written instructions from the customer, a disputed bill, or payment arrangements require otherwise.
- (F) Household Rule. A company shall not disconnect or refuse service to a customer due to a delinquent bill owed by another person unless a person owing a delinquent bill, resulting from service to that household, resides in the same household.
- (G) Establishment of a Reasonable Repayment Plan. When establishing a reasonable repayment plan, the company shall consider the income and income schedule of the customer, if offered by the customer, the customer's payment history, the size of the arrearage and current bill, the amount of time and reason for the outstanding bill and whether the delinquency was caused by unforeseen circumstances.

### **3.303 Disconnection Notice Form**

The notice form required under Section 3.302 and defined in Section 3.301 shall contain the following information:

- (A) a statement that the ratepayer's account is delinquent, a statement of the amount of the delinquency, and a statement that service will be disconnected unless:
  - (1) the delinquency is paid in full by a certain date; or
  - (2) the ratepayer enters into a reasonable agreement with the utility to pay the delinquency by means of a repayment plan; or
  - (3) the ratepayer denies the existence of any delinquency in excess of \$50.00, submits the dispute to the Board, and the Board advises the utility not to disconnect service; or
  - (4) the ratepayer presents to the utility (or gives actual notice that he or she will, within seven days, present to the utility) a statement from a duly licensed physician certifying that disconnection will result in an immediate and serious health hazard to the ratepayer or to a resident within the ratepayer's household, provided that use of physician's certificate to prevent disconnection or to cause a reconnection is limited to two consecutive 30-day periods and shall not exceed three 30-day periods in any calendar year, except upon written order of the Board;
- (B) the dates and times of day when the utility may disconnect service if the ratepayer does not take appropriate action as described above;
- (C) a statement that the utility will negotiate a reasonable agreement for payment of the delinquency by means of a repayment plan and that if, after entering such negotiations, the ratepayer does not believe the utility's terms to be reasonable, the ratepayer may request the assistance of the Consumer Affairs Division of the Department of Public Service in conducting further negotiations;
- (D) the name(s) or title(s), address(es), telephone number(s) and business hours of the company representatives with whom the ratepayer may make any inquiry or complaint, and a statement that telephone calls made from within Vermont for such

purposes may be made collect or toll free;

- (E) the address, telephone numbers, including the toll-free number, and business hours of the Consumer Affairs Division of the Department of Public Service, and a statement that, in addition to providing assistance or advice as to negotiations with utilities, the Division can provide information as to how to submit to the Board a dispute over the existence of a delinquency;
- (F) the itemized cost that may be charged to the ratepayers for disconnection, collection and later restoration of service and, if a deposit may be required for restoration of service, an explanation of how the amount will be calculated;
- (G) in the case of gas and electric utilities, if disconnection is to occur between November 1 and March 31, inclusive, a list as annually compiled and distributed by the Department of Public Service, of the names, addresses and telephone numbers of governmental and private agencies which may provide assistance to ratepayers in paying their utility bills;
- (H) in the case of gas and electric utilities, an offer to arrange a monthly installment plan for the payment of future bills, provided, that such offer need not be made if the account is for service at premises not used as a principal residence; and
- (I) in the case of gas and electric utilities, a statement that service to households with any member aged 62 or older shall not be disconnected between November 1 and March 31 if outdoor temperatures are forecast to fall below 32 degrees Fahrenheit during a 48-hour period beginning at the anticipated time of disconnection, provided that the account holder furnishes advance written notice to the utility that the household qualifies under this paragraph and, if requested by the utility, furnishes reasonable proof of such qualification; and
- (J) any other information not inconsistent with the above and which has received prior approval of the Board.

### **3.304 Winter Disconnections**

No gas or electric utility may disconnect service to any residential ratepayer between November 1 and March 31, inclusive, unless, in addition to complying with all other requirements of this rule, the utility has complied with the following:

- (A) the utility shall make reasonable attempts to give the ratepayer actual oral notice of the information required by Section 3.303. If actual oral notice has not been given in any other manner, reasonable attempts shall consist of at least the following: three telephone calls made at least three hours apart to a telephone number provided by the ratepayer for this purpose or, if no such number has been provided, to the ratepayer's number as it appears in the telephone directory or as obtained from directory assistance, and a personal visit to the premises at which service is provided. Actual oral notice given by one of these methods (telephone calls or personal visit) eliminates the need for further attempts by any other method.
  - (1) The notice required by this paragraph may be given to either the ratepayer or to another responsible adult at the premises where service is to be disconnected.

- (2) If actual oral notification has not otherwise been given, at least one of the telephone calls made to comply with this section shall be placed between the hours of 5:30 P.M. and 9:30 P.M. on a business day.
  - (3) A telephone call to a telephone not removed from service which results in a busy signal or in any other condition preventing communication, or an unanswered call which has not been allowed to ring for at least 60 seconds, shall not count toward satisfaction of the requirement of this section.
  - (4) The unavailability of a ratepayer's telephone number shall excuse compliance with the requirement to attempt notification by telephone.
  - (5) If no responsible adult is at the premises when a personal visit made in compliance with this paragraph occurs, a notice containing the information required by Section 3.303 shall be left in a secure and conspicuous place.
  - (6) When oral notification is given in compliance with this paragraph, in addition to giving the information required by Section 3.303, the utility shall advise the ratepayer or other responsible adult as the case may be, that oral notification is not required to be given in connection with any subsequent disconnection which may occur during the same winter season, unless the utility's tariffs provide otherwise.
- (B) If, after complying with the requirements of subparagraph (A), actual oral notification has not been given, then, at least 48 hours before disconnection is to occur, the utility shall report to the Department of Public Service, in writing or by telephone, the ratepayer's name, address and, if available, telephone number. The utility shall be prepared to provide a description of the observations of the person who attempted to give oral notice by personal visit as to whether the premises appear to be occupied.
- (C) If the ratepayer has been given actual oral notice during the current winter period with respect to a previous delinquency, compliance with subparagraphs (A) and (B) shall not be required, provided that the utility shall deliver or mail to the premises at which service is to be disconnected (with a copy mailed to the ratepayer's billing address if different) a notice containing the information required by Section 3.303. Delivery is complete (1) if made by personal service, upon actual delivery to the ratepayer or his premises at least 48 hours prior to the disconnection, not counting Vermont holidays, and (2) in the case of notice by mail, by deposit of the notice at any United States post office, postage prepaid, at least four days prior to disconnection, not counting days when the postal service does not make regular deliveries of mail.
- (D) (1) Prior to disconnection during the winter period, the utility shall confirm that outdoor temperatures, as predicted by a current National Weather Service (phone 862-2475) forecast for the Burlington, Vt., area, or by another weather service approved by the Public Service Board, will not drop under 10 degrees Fahrenheit during a 48-hour period beginning between 7 a.m. and 10 a.m. on the anticipated date of disconnection. When temperatures are forecast to fall below 10 degrees Fahrenheit during the winter period, the utility is prohibited from performing disconnections.
- (2) Utility service to households with any member aged 62 or older shall not be disconnected during the winter period if outdoor temperatures are forecast to fall

below 32 degrees Fahrenheit during a 48-hour period beginning between 7 and 10 a.m. on the anticipated date of disconnection, provided that the account holder furnishes advance written notice to the utility that the household qualifies under this paragraph. The utility may require reasonable proof of such qualification under this subparagraph.

### **3.305 Notice Under Repayment Plan**

- (A) Notwithstanding the provisions of 3.301(C), when a utility proposes to disconnect service because of a ratepayer's failure to abide by the terms of a repayment plan it shall deliver or mail to the address at which service is to be disconnected (with a copy mailed to the ratepayer's billing address if different) a notice containing the information required by Sections 3.303(A)(1) and 3.303 (B). If made in person, delivery shall be effected at least 72 hours prior to disconnection; if the notice is mailed, it shall be deposited in a United States post office at least five days prior to disconnection. In lieu of giving written notice, the utility may give notice orally, in person or by telephone, at least 72 hours prior to disconnection. Substantial compliance with a repayment plan established under Section 3.307(B) or Section 3.302 (B) (6) shall be demonstrated if the customer has paid at least 75 percent of each agreed-upon payment as due.
- (B) The manner of notice provided for in subparagraph (A) shall be sufficient, even in the case of disconnection by a gas or electric utility in the winter, provided that such utility shall have given oral notice of the information contained in Section 3.303 at the time the repayment plan was entered into and provided the terms of the repayment plan were reasonable.
- (C) Disconnection resulting from failure to meet the terms of a repayment plan shall occur only after the utility has issued notice in accordance with Section 3.305(A).

### **3.306 Time and Notice of Disconnection**

Disconnection of utility service shall occur only between the hours of 8:00 A.M. and 2.00 P.M. of the business day, specified on the notice of disconnection, or within four business days thereafter between April 1 and October 31, inclusive, and within eight days thereafter between November 1 and March 31, inclusive; provided, however, if a company has available personnel authorized to reconnect service and enter into arrangements on behalf of the utility until 8:00 P.M. of a normal business day, the utility may disconnect service between the hours of 8:00 A.M. and 5:00 P.M. When service is disconnected at the premises of the ratepayer, which shall include disconnection at a pole at or near the premises of the ratepayer, the individual making the disconnection shall immediately inform a responsible adult on the premises that service has been disconnected, or if no responsible adult is then present, such individual shall leave on the premises in a conspicuous and secure place a notification advising that service has been disconnected and what the ratepayer has to do to have service restored.

### **3.307 Restoration of Service**

- (A) If service has been disconnected, the company shall within twenty-four hours restore service upon the ratepayer's request when the cause for disconnection of service has been removed or when an agreement has been reached between the ratepayer and the company regarding the dispute which led to the disconnection or when directed to do so by the Board.

- (B) The company shall restore service if the disconnected customer pays one-half of the delinquent bill, or a lesser negotiated amount, before restoration and enters into a repayment plan to pay the balance over a minimum period of three months, except that the utility is not obligated to enter into more than two plans of this type with a particular customer within a calendar year.
- (C) Restoration of service, to the extent feasible, shall be done so as avoid charging ratepayers for overtime rates and other abnormal expenses.
- (D) A company shall not require prepayment of any non-recurring charges associated with disconnection and restoration of service as a condition of restoration of service. Such charges shall be paid within thirty days unless part of a repayment agreement.
- (E) Upon receipt of a Physician's Certificate, as defined in Section 3.301(D), the company shall reconnect service as soon as possible, but in no event longer than 24 hours.

### **3.308 Filing Requirements**

- (A) Within thirty days after the effective date of this rule, all companies subject to its provisions shall submit to the Board for its review a copy of the disconnection notice form described in Section 3.303.
- (B) All gas, electric and telephone utilities subject to this rule shall file monthly with the Board, on a form provided by the Board, a statement reporting the following information regarding residential service for the previous month: the number of bills forwarded to ratepayers, the number of disconnection notices sent, the number of actual disconnections, the number of reconnections made within 15 days of disconnection, the number of repayment plans entered into, the number of repayment plans that were broken, and the dollar amount of delinquencies for which disconnections were made.
- (C) Companies that fail to file information required in Section 3.308(B) within six months of the month being reported shall be precluded from disconnecting any residential customers.
- (D) Within 120 days of the effective date of revisions to this rule, each utility shall file tariff amendments to ensure that they are consistent with the provisions of this rule.